IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 5664 of 2005

Between:

1. M/s. Rajani Colour Lab rep by Managing Partner
Sri Ch. Saraiah S/o late Venkataiah
r/o H. No. 2-739-4-C/2/2-1, Chourastha, Hanamkonda, Warangal
2 Sri Ch. Saraiah S/o Late Venkataiah
r/o H. No. 2-739-4-C/2/2-1, Chourastha, Hanamkonda, Warangal
3 Sri Gobbetta Devadasu S/o Ilaiah
Somadevarapally Village, Dharmasagar mandal, Warangal
4 Smt. Chirra Vanaja W/o Sri Ch. Saraiah
r/o H. No. 2-739-4-C/2/2-1, Chourastha, Hanamkonda, Warangal
5 Smt. Chirra Anasuya W/o Late Venkataiah
r/o H. No. 2-739-4-C/2/2-1, Chourastha, Hanamkonda, Warangal
6 Sri Gerraboni Sarangapani S/o Rajaiah
R/o H. No. 6-4-144, Sagarveedhi, Hanamkonda Warangal
7 A. Ravinder Reddy S/o Madhava Reddy
r/o H.No. 22-7-224, Pragathi Nagar Colony
near REC Pump, Hanamkonda, Warangal

.. PETITIONERS

AND

1 The Vysya Bank Limited, rep., by Branch Manager
Hanamkonda Branch, Hanamkonda, Warangal
2 The Recovery Officer Debts Recovery Officer Debts
Recovery Tribunal, Hyderabad, 5th Floor, Triveni
Complex, Abids, Hyderabad

.RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Writ of Certiorari call for the records pertaining to in connection with proclamation of sale notice dated
4-02-2005 fixing the auction sale on 22-03-2005 by the 2nd respondent in R.P. No. 340 of 2003 in O. A. No. 500/2001 and quash the same as being illegal, arbitrary, violative of Principales of natural justice.

Counsel for the Petitioners: MR.K.V.SIMHADRI

Counsel for the Respondent No.1: MR.ADDEPALLI SURYANARAYANA

The Court at the admission stage made the following :

ORDER: (Per BRSR,J)

The petitioners invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India with a prayer to issue a writ of *Certiorari* and call for the records pertaining to and in connection with proclamation of sale notice, dated 04.02.2005, fixing the auction sale on 22.03.2005 by the second respondent in R.P.No.340 of 2003 in O.A.No.500 of 2001 and quash the same.

The first respondent-bank filed suit for recovery of the amount of Rs.17,50,410/- from the petitioners herein with future interest at the rate 18% p.a. with quarterly rest. The writ petitioners were set *ex parte* and an ex parte order was passed allowing the O.A. as early as on 25.06.2003 by the Debts

Recovery Tribunal, Hyderabad. Recovery certificate was issued. The petitioners filed application to set aside the ex parte order, dated 25.06.2003 with a petition to condone the delay of 75 days in filing the petition to set aside the ex parte order. The same was numbered as I.A.No.1342 of 2003, which was dismissed for default on 06.10.2004. Thereafter, the petitioners filed M.A.No.175 of 2004 for restoring I.A.No.1342 of 2003, which was dismissed for default. This application was also dismissed for default on 15.10.2004. The petitioners again filed M.A.No.193 of 2004 for restoration of M.A.No.175 of 2004, which was dismissed for default. The said application is stated to be under consideration before the Debts Recovery Tribunal.

The gravamen of the complaint in the instant writ petition is that even while the application in M.A.No.193 of 2004 is pending consideration before the Debts Recovery Tribunal, the respondents are proceeding with the auction of the property that was offered as security. The contention is that pending the application for restoration of the application, which was dismissed for default, the bank should not be allowed to proceed with the auction.

Learned counsel for the petitioners laid great emphasis on the affidavit filed by Sri V.Vishwanadham, learned counsel appearing on behalf of the petitioners before the Debts Recovery Tribunal. We restrain ourselves not to express any opinion since the same is required to be taken into consideration by the Debts Recovery Tribunal.

On consideration of facts and having noticed the conduct of the petitioners, we are not inclined to grant any relief whatsoever. The writ petition fails and shall accordingly stand dismissed.

This order shall have no bearing whatsoever upon the pending applications before the Debts Recovery Tribunal, which are required to be taken into consideration for disposal in accordance with law.

However, before parting with the case, we make it clear that this order shall not enable the respondents to sell the property in the public auction scheduled to be held on 22.03.2005 at a price of their choice, but the auction must be

conducted in a fair and transparent manner and all efforts shall be made to realize the market value of the property. That if the auction is vitiated for any reason, it shall always be open to the petitioners to assail the same in accordance with law.

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B. SUDERSHAN REDDY, J.

Date: 21.03.2005.

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C.V. RAMULU, J.

Note: Furnish C.C. by today.

(B/o)

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To

1 The Branch Manager, Vysya Bank Limited,
Hanamkonda Branch, Hanamkonda, Warangal

2 The Recovery Officer, Debts Recovery Officer Debts
Recovery Tribunal, Hyderabad, 5th Floor, Triveni
Complex, Abids, Hyderabad

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